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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION ONE

SUZANNE Y.,

Petitioner,

v.

THE SUPERIOR COURT OF LOS
ANGELES COUNTY,

Respondent;

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Real Party in Interest.

B220813

(Los Angeles County
Super. Ct. No. CK76668)

ORIGINAL PROCEEDINGS; petition for extraordinary writ. Marilyn K.
Martinez, Commissioner. Petition denied.

Suzanne Y., in pro. per., for Petitioner.

No appearance for Respondent.

Robert E. Kalunian, Acting County Counsel, James M. Owens, Assistant County
Counsel, and O. Raquel Ramirez, Deputy County Counsel, for Real Party in Interest.

In her petition for an extraordinary writ, Suzanne Y. (Mother) challenges a November 16, 2009 order setting a permanency planning hearing for March 15, 2010, as to her children, Joseph S., Mohammed Y.-R., and Khalid S. We deny the petition because substantial evidence supports the juvenile court's findings that there was no substantial probability that Joseph S., Mohammed Y.-R., and Khalid S. would be returned to Mother in six months.

BACKGROUND

Joseph S. is six years old, Mohommed Y.-R. is three years old, and Khalid S. is 13 months old. The matter came to the attention of the Department of Children and Family Services (DCFS) on January 1, 2009 because of domestic violence between Mother and her father. On March 5, 2009, DCFS received a new allegation that Mother was using drugs and she tested positive for marijuana on March 6, 2009. Furthermore, the children were exposed to physical altercations between Mother and the maternal aunt, with whom she lived.

On March 24, 2009 DCFS filed a petition under Welfare and Institution Code¹ section 300, subdivisions (a) (serious physical harm by Mother) and (b) (failure to protect). DCFS alleged that Mother exposed the children to a violent altercation between herself and the maternal aunt; that Mother had a history of substance abuse and is a current user of marijuana and that DCFS voluntary services have failed to resolve the problem; and that Mother has created a detrimental situation for the children in that Mother made threats to kill the children if they were removed. Also, DCFS was informed by the maternal aunt that Mother told her she was using meth.

On March 24, 2009, the juvenile court detained the children and they were placed in foster care. The juvenile court ordered DCFS to provide reunification services and ruled that Mother was to have monitored visits.

¹ Unless otherwise indicated, all further statutory references are to the Welfare and Institutions Code.

On April 20, 2009, the juvenile court sustained the petition as to Joseph S., Mohammed Y.-R. and Khalid S. and the children were ordered to be dependents of the juvenile court.

On May 18, 2009, the court ordered a disposition plan for Mother that was to include drug rehabilitation with random testing, individual counseling, and a verification that Mother was living a sober and stable lifestyle. The juvenile court found that DCFS had complied with the case plan. The juvenile court ordered the children to be placed with the maternal aunt, who was now living in another apartment with the maternal grandmother.

Between September and October 2009 Mother was living a transient lifestyle, and her whereabouts were unknown. But on October 16, 2009, Mother was arrested on a charge of attempted murder and is currently incarcerated.

From May 18, 2009 until the present, DCFS has provided reunification services. However, Mother only attended one individual counseling session and one group counseling session and did not drug test.

On November 16, 2009, the juvenile court found that Mother was not in compliance with the case plan and terminated reunification services. Mother objected to the termination and argued that she was participating in parenting classes at her place of incarceration. Mother further stated that she regularly speaks to the children on the telephone.

The juvenile court set a section 366.26 hearing for March 15, 2010. On December 2, 2009, Mother's notice of intent to file a writ petition was filed with the superior court; the notice of intent was signed by Mother and dated November 25, 2009. On January 4, 2010, Mother's counsel advised this court that under *Glen C. v. Superior Court* (2000) 78 Cal.App.4th 570 he was unable to file a petition for extraordinary relief on behalf of Mother. Mother filed the petition in propria persona on December 22, 2009.

Mother's petition alleged that she would like the return of her children and that she wanted reunification services. On December 23, 2009, the clerk of our court notified the

parties that the matter will be decided on its merits. DCFS filed an answer to the petition for extraordinary writ.

DISCUSSION

Noncompliance with California Rules of Court

Rule 8.452 of the California Rules of Court requires that a writ petition to review an order setting a section 366.26 hearing include certain specified information. In particular, “[t]he petition must be accompanied by a memorandum” that provides a summary of the significant facts and supports each point with argument and citation to authority and the record. (Cal. Rules of Court, rule 8.452(a)(3) & (b); see also rule 8.456(a)(3) & (b).) A petition that fails to comply with these rules is subject to dismissal. We “dismiss as inadequate any rule 39.1B [now rule 8.452] petition that does not (1) summarize the particular factual bases supporting the petition, (2) refer to specific portions of the record, (3) relate the facts to the grounds alleged as error, (4) note disputed aspects of the record, and (5) have attached to it a particularized memorandum of points and authorities. [Citation.]” (*Cheryl S. v. Superior Court* (1996) 51 Cal.App.4th 1000, 1005, italics omitted; see also *Cresse S. v. Superior Court* (1996) 50 Cal.App.4th 947, 955-956.)

Mother failed to comply with these rules. Her petition does not include a memorandum of points and authorities, and she offers no “support” for her petition. There are no grounds for the petition. There is no factual basis for the petition.

Although we could dismiss the petition for its clear failure to comply with the applicable court rules, we decline to do so in light of the importance of the right at stake and the critical stage of these proceedings.

Substantial Evidence

The November 16, 2009 findings and orders of the juvenile court are supported by substantial evidence. Any request by Mother for more reunification services is not supported by the record or her writ petition.

Prior to the children's detention in March 2009, DCFS attempted to provide Mother with voluntary services; she failed to comply and refused those services. Mother tested positive for marijuana in March 2009, and the maternal relatives expressed concerns about the children being in her care based upon her drug abuse and threats to harm the children. Therefore, the children were detained in March and placed with their maternal aunt in May 2009.

After sustaining section 300 petition allegations regarding Mother's drug abuse and threats to harm the children, the juvenile court ordered her to participate in a drug rehabilitation program, random drug testing, parenting education, and individual counseling to address case issues, and to provide verification that she was living a sober and stable lifestyle. Although DCFS provided her with several referrals and transportation assistance between May and July 2009, and attempted to facilitate her entry into two drug rehabilitation programs, she failed to comply with the case plan between May and October 2009. Mother entered a drug treatment program on October 1, 2009, but completed only one individual counseling session and one group counseling class before being arrested and incarcerated for attempted murder on October 16, 2009. Mother also visited only sporadically with the children between May and October 2009.

At the six-month review hearing on November 16, 2009, the juvenile court noted that Mother remained incarcerated, found she was not in compliance with the case plan, and indicated her visitation with the children had been sporadic. For these reasons, it was reasonable for the juvenile court to find that return of the children to her custody would create a substantial risk of detriment to them, and the juvenile court terminated family reunification services. The juvenile court also found that DCFS had made reasonable efforts to reunify the family. The juvenile court then continued the matter to March 15, 2010 for a section 366.26 hearing.

The juvenile court's findings and orders are supported by the evidence, and Mother has not argued otherwise.

DISPOSITION

The petition for an extraordinary writ is denied.

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CHANEY. J.

We concur:

ROTHSCHILD, Acting P. J.

JOHNSON, J.